

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN
MILWAUKEE DIVISION

DANIEL DOKEY
on behalf of himself and all
others similarly situated,

Plaintiff,

Case No. 19-cv-921

v.

SPANCRETE, INC.,

Defendant.

PLAINTIFF'S CIVIL L.R. 7(h) EXPEDITED NON-DISPOSITIVE MOTION TO COMPEL

Plaintiff, Daniel Dokey, by and through his attorneys, Walcheske & Luzi, LLC, and pursuant to Fed. R. Civ. P. 27 and Civil L.R. 7(h), moves this Court for an order compelling Defendant, Spancrete, Inc., to answer and appropriately supplement the discovery Plaintiff served upon it.

The grounds for this Motion are set forth in detail in the accompanying Declaration of James A. Walcheske and is further supported by the Declaration of Benjamin M. Duveneck. However, and to summarize, on September 20, 2019, Plaintiff served *Plaintiff's First Set of Interrogatories and Requests for Production of Documents* on Defendant.¹ On October 28, 2019, Defendant provided its responses to that set of discovery, further providing amended responses to the same on November 20, 2019.² In its responses, Defendant objected and refused to respond to Request for Production Nos. 4, 9-10, and 12, on the basis that conditional certification had not yet been granted.³

¹ (Declaration of James A. Walcheske ("Walcheske Decl."), ¶ 3.)

² (*Id.* at ¶¶ 4-5.)

³ (*Id.* at ¶ 6.)

On January 8, 2020, this Court conditionally certified the collective. (ECF No. 23.)

On January 17, 2020, Plaintiff asked Defendant to supplement its responses to Request for Production Nos. 4, 9-10, and 12, and also served a second set of discovery on Defendant.⁴ Defendant's responses to Plaintiff's second set of discovery were due on or before February 17, 2020.⁵

On February 17, 2020, Plaintiff's counsel learned that Defendant sent letters and checks to Plaintiff and members of the putative collective and class, purporting to compensate them for overtime wages owed.⁶ Subsequently, Plaintiff has repeatedly requested the underlying information and documents responsive to Request for Production Nos. 4, 9-10, and 12, and Plaintiff's second set of discovery, which are necessary for Plaintiff and Plaintiff's retained expert to determine the correctness and accuracy of Defendant's payments made.⁷ However, as of the date of this Motion, Defendant has failed to do so.⁸

For such reasons and as supported by the Declarations of James A. Walcheske and Benjamin M. Duveneck, Plaintiff respectfully requests that this Court order Defendant to supplement its responses to Plaintiff's first set of discovery and answer the second.

Dated this 18th day of March, 2020.

WALCHESKE & LUZI, LLC
Counsel for Plaintiff

s/ James A. Walcheske
James A. Walcheske, State Bar No. 1065635

WALCHESKE & LUZI, LLC
15850 W. Bluemound Rd., Suite 304
Brookfield, Wisconsin 53005
Phone: (262) 780-1953
Fax: (262) 565-6469
jwalcheske@walcheskeluzi.com

⁴ (*Id.* at ¶¶ 8-9.)

⁵ (*Id.* at ¶ 11.)

⁶ (*Id.* at ¶ 13, Exhibit C.)

⁷ (*See id.* at ¶¶ 14-19, 22, Exhibits D-F.)

⁸ (*Id.* at ¶¶ 20-21.)